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10 Medical Group, Inc.

11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA
13

14 UNITED STATES OF AMERICA
15 *ex rel.* IONM LLC, and *ex rel.* JUSTIN
16 CHEONGSIATMOY, M.D.; STATE
17 OF CALIFORNIA *ex rel.* IONM
18 LLC, and *ex rel.* JUSTIN
19 CHEONGSIATMOY,
20 M.D.; LOS ANGELES COUNTY *ex*
21 *rel.* IONM LLC, and *ex rel.* JUSTIN
22 CHEONGSIATMOY, M.D.; and
23 JUSTIN CHEONGSIATMOY,
24 M.D., in his individual capacity,

25 Plaintiff,

26 v.

27 UNIVERSITY OF SOUTHERN
28 CALIFORNIA, and USC CARE
MEDICAL GROUP, INC.,

Defendants.

CASE NO: 2: 18-cv-08311-WLH (ASx)

JUDGE: Hon. Wesley L. Hsu

**JOINT STATUS REPORT BY
DEFENDANTS UNIVERSITY OF
SOUTHERN CALIFORNIA AND USC
CARE MEDICAL GROUP, INC. AND
NON-PARTIES UNITED STATES OF
AMERICA AND STATE OF
CALIFORNIA**

Action Filed: September 26, 2018

Trial Date: None

1 **I. INTRODUCTION**

2 The United States of America (the “United States”) and the State of California
3 (“California”), as well as Defendants University of Southern California and USC
4 Care Medical Group, Inc. (“Defendants”) submit this Joint Status Report to notify
5 the Court that they have not received any indication that Justin Cheongsiatmoy,
6 M.D. and IONM LLC (“Relators”) have retained new counsel. Notwithstanding the
7 apparent failure of Relators to obtain new counsel, the Defendants and the United
8 States and California (collectively, the “Governments”)¹ believe that the interests of
9 justice would be best served by again continuing for an additional 60 days the Status
10 Conference regarding Relators’ legal representation (the “Representation Status
11 Conference”), which is presently scheduled to take place on July 11, 2025, and the
12 hearing on Defendant’s motion for partial summary judgment (the “Summary
13 Judgment Motion Hearing”) currently set for August 8, 2025. Dkt. 380.

14 The previous Status Report (Dkt. 379) indicated that the Governments have
15 obtained the needed internal approvals authorizing them to seek leave to intervene
16 for the purposes of settlement and were negotiating with Defendants regarding
17 specific terms to be included in the formal settlement agreement. Since the last Status
18 Report, the Governments and Defendants have largely finished negotiating the
19 operative terms of the settlement agreement although the finalization and execution
20 of those agreements have been delayed by the recent change in representation for
21 the United States due to the retirement of its former counsel. Continuing the
22 Representation Status Conference and the Summary Judgment Motion Hearing for
23 an additional 60 days will allow time for the Governments and Defendants to finalize
24 and execute the settlement agreement and for the Governments to then prepare and
25 file the above-referenced motion for leave to intervene. In addition, the requested
26

27 ¹ The Governments are not parties to this action but are instead real parties in interest.
28 *United States ex rel. Eisenstein v. City of New York*, 556 U.S. 928, 934-35 (2009).

1 continuance would relieve the Court of having to issue rulings on the consequences
2 of Relators' failure to obtain new counsel and the pending summary judgment
3 motion, both of which issues would likely be mooted if the settlement agreements
4 are approved by the Court.

5 Accordingly, the Governments and Defendants respectfully request
6 continuances of the Representation Status Conference and the Summary Judgment
7 Motion Hearing for an additional 60 days.

8 **II. STATEMENT OF FACTS**

9 As detailed in a prior December 27, 2024 Joint Status Report (Dkt. 372), on
10 July 11, 2024, the Desai Law Firm filed a motion to withdraw as local counsel. Dkt.
11 341. In its Statement of Interest ("SOI") filed on August 26, 2024 (Dkt. 353), the
12 United States pointed out that:

13 setting a reasonable deadline for relators to obtain new counsel in this
14 case would allow time for the United States to determine whether, given
15 the changed circumstances, it is appropriate to request leave to
16 intervene for good cause pursuant to 31 U.S.C. § 3730(c)(3) to facilitate
17 settlement negotiations. Such negotiations, if successful, would serve
18 the interests of judicial efficiency by effectively mooting the issue of
19 whether this action should be dismissed . . . based on relators' lack of
20 representation by an attorney.

21 *Id.* at 4:11-17 (footnotes omitted). At the time, the United States believed that 30
22 days would be a reasonable time to allow relators to obtain new counsel.² On August
23 27, 2024, the Court granted the motion of the Desai Law firm to withdraw as counsel
24 and *sua sponte* terminated the representation of Alice Chang as counsel due to her
25 inactive status. Dkt. 355. The Court also ordered Relators to appear in person at a
26 Representation Status Conference if they had not retained new counsel. The
27 Representation Status Conference was originally scheduled for October 4, 2024

28 ² Dkt. 353 at p. 4 n.2.

1 (Dkt. 358) but after reviewing status reports filed by the Government and/or
2 Defendants, the Court continued the Representation Status Conference to December
3 6, 2024, January 3, 2025, March 7, 2025, May 9, 2025 and then to the current date
4 of July 11, 2025. Dkt. 369, 371, 373, 377, 380. The Court also continued the
5 Summary Judgment Motion Hearing to December 6, 2024, January 17, 2025, April
6 4, 2025, June 6, 2025 and then to the current date of August 8, 2025. Dkt. 369, 371,
7 373, 377, 380. As of July 7, 2025, Relators have not indicated that they have retained
8 new counsel.

9 As noted in a prior Joint Status Report (Dkt. 372), significant progress has
10 been made towards resolution of this entire action through settlement. Specifically,
11 the California Department of Insurance finalized a settlement with Defendants,
12 intervened in this action and requested dismissal of all claims asserted under
13 California's Insurance Frauds Prevention Act, Cal. Ins. Code § 1871.7 ("IFPA").
14 This Court granted the Department of Insurance's request and dismissed the IFPA
15 claims on November 22, 2024. Dkt. 370. As noted in the most recent Status Report
16 (Dkt. 379), the Governments obtained the needed internal approvals authorizing
17 them to seek leave to intervene for the purposes of settlement and were negotiating
18 with Defendants regarding specific terms to be included in the formal settlement
19 agreement. needed to obtain internal approvals authorizing them to seek leave to
20 intervene for the purpose of allowing the Relators the opportunity to present to the
21 Court any objections they may have regarding the settlement and/or to be heard
22 regarding the appropriate percentage of the settlement proceeds to be awarded to
23 them. Since the last Joint Status Report, the Governments have largely completed
24 negotiations with Defendants regarding the specific terms to be included in the
25 formal settlement agreement but finalization and execution of the settlement
26 agreement was delayed because the United States' former counsel (AUSA Frank
27 Kortum) is retiring from government service and the case needed to be reassigned
28 to current counsel who needed a reasonable period of time to become familiar with

1 the case and the status of settlement. Continuing the Representation Status
2 Conference and the Summary Judgment Motion Hearing for an additional 60 days
3 will allow time for the Governments and Defendants to finalize and execute the
4 settlement agreement. Once the settlement is finalized, the Governments will then
5 be able to prepare and file the above-referenced motion for leave to intervene. The
6 hearing on the motion to intervene will provide Relators with a reasonable
7 opportunity to object to the settlement and/or to be heard regarding the appropriate
8 percentage of the settlement proceeds to be awarded to them.³ Accordingly,
9 continuing the Representation Status Conference for an additional 60 days will allow
10 sufficient time for the settlement agreements with the Governments to be finalized
11 and signed and thereafter reviewed by the Court together – rather than separately –
12 for the purpose of determining whether the settlements should be approved, which
13 is in the interest of judicial economy.

14 **III. THE COURT SHOULD CONTINUE THE REPRESENTATION**
15 **STATUS CONFERENCE AND SUMMARY JUDGMENT MOTION**
16 **HEARING**

17 For the following reasons, this Court should exercise its discretion to continue
18 the Status Conference Regarding Representation for an additional 60 days in the
19 interests of justice.⁴ First, as discussed above, and as set forth in the SOI, intervention

21 ³ The Federal False Claims Act and the California False Claims Act provide that the
22 government may settle a *qui tam* action notwithstanding the objections of the relator
23 if the Court determines, after a hearing, that the proposed settlement is fair, adequate,
24 and reasonable under all the circumstances. 31 U.S.C. § 3730(c)(2)(B); Cal. Gov't
Code § 12652(e)(2)(B).

25 ⁴ In its SOI, the United States pointed out that in *United States ex rel. Lockhart v.*
26 *General Dynamics Corp.*, No. 4:04cv296-RH/WCS, 2008 WL 11350222 (N.D. Fla.
27 Feb. 19, 2008) the United States filed a SOI for the purpose of asserting that the
28 relator there could not proceed without representation. The court in *Lockhart* set a
deadline for relator to retain counsel and then extended that deadline. *Id.* at *1. The
SOI filed by the United States here also pointed out that Defendants' *Ex Parte*
Application for Order Setting a Status Conference took the position that relators

1 by the Governments for the purpose of settling this action will “effectively moot[]
2 the issue of whether this action should be dismissed . . . based on relators’ lack of
3 representation by an attorney.” Dkt. 353 at p. 4:14-17. Second, continuing the
4 Representation Status Conference again for a short period will allow the
5 Governments and Defendants to finalize and execute the settlement agreements, a
6 process that cannot be completed by July 11, 2025, the date currently set for the
7 Representation Status Conference. Third, as discussed above, the Governments will
8 not be in a position to seek leave to intervene until the settlement agreements are
9 finalized and signed. Fourth, if the Representation Status Conference is continued,
10 the Relators will have an opportunity to object to the settlement agreement (and to
11 be heard regarding the appropriate share of the settlement proceeds to be awarded to
12 them), even if they are not represented by counsel. For example, in *United States ex*
13 *rel. Phillips-Minks v. Behavioral Healthcare Corp.* No. CV 98-1012 IEG (LAB) at
14 Dkt. 283 (S.D. Cal. July 27, 2001) (available on PACER), the United States sought
15 to intervene for the purpose of presenting a settlement to the court for approval. The
16 court granted the motion over the objection of the unrepresented relator, noting that
17 the relator would have “an opportunity to object [to the] settlement if she so
18 chooses.” *Id.* Dkt. 283 at p. 4:4-5.⁵

19 _____
20 should be allowed a “reasonable period of time” to retain counsel. Dkt. 352 at 4:11-
21 12. In light of cases such as *Lockhart* and under the circumstances, the Governments
22 and the Defendants agree that it would be reasonable for the Court to continue the
Representation Status Conference.

23 ⁵ A relator who is not an attorney is not qualified to represent the interests of the
24 United States. *See Stoner v. Santa Clara County Office of Education*, 502 F.3d 1116,
25 1126-27 (9th Cir. 2007). However, once the Governments have intervened in the
26 action for the purpose of effectuating a settlement, if Relators object to the settlement
27 or wish to be heard regarding the appropriate share of the settlement proceeds to be
28 awarded to them, cases such as *Stoner* may not apply because Relators are not then
representing the interests of the Governments. The corporate relator (IONM, LLC)
must still be represented by counsel (*In re America West Airlines*, 40 F.3d 1058,
1059 (9th Cir. 1994), but neither the Governments nor Defendants are aware that

1 Since the Court's approval of the settlement agreements would moot
2 Defendants' pending motion for partial summary judgment, judicial economy also
3 supports a continuance of the Summary Judgment Motion Hearing currently set for
4 August 8, 2025 for an additional 60 days as well.

5 **IV. CONCLUSION**

6 For the foregoing reasons, the Governments and Defendants respectfully
7 propose that the Court continue the Representation Status Conference currently
8 scheduled for July 11, 2025 and the Summary Judgment Motion hearing currently
9 set for August 8, 2025 for a period of 60 days.

10
11 Dated: July 9, 2025 Respectfully submitted,
12 LEECH TISHMAN NELSON HARDIMAN,
INC.

13 By: /s/ Mark Hardiman
14 Mark Hardiman
15 Attorneys for Defendants
16 University of Southern California and
USC Care Medical Group, Inc.

17 Dated: July 9, 2025 UNITED STATES ATTORNEY'S OFFICE

18 By: /s/ Hunter Byron Thomson
19 Hunter Byron Thomson, AUSA
20 Attorneys for Non-Party United States
of America

21 Dated: July 9, 2025 CALIFORNIA ATTORNEY GENERAL'S
22 OFFICE

23 By: /s/ John Fisher
24 John P. Fisher
25 Attorneys for Non-Party State of
California

26 _____
27 IONM, LLC has any interests beyond those of the individual relator (Justin
28 Cheongsiatmoy, M.D.) in this case.

Attestation Pursuant to local Rule 5-4.3.4(a)(2)(i)

The undersigned attests that all signatories listed, and on whose behalf this filing is submitted, concur in the filing's content and have authorized the filing.

Dated: July 9, 2025

LEECH TISHMAN NELSON HARDIMAN,
INC.

By: /s/ Mark Hardiman
Mark Hardiman

Attorneys for Defendants
University of Southern California and
USC Care Medical Group, Inc.